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6 UNITED STATES BANKRUPTCY COURT

7 DISTRICT OF NEVADA

8 In Re:) Case No. BKS-09-24366 MKN
9 TRAVIS CLARK) Chapter 13
10)
11) Hearing Date: October 22, 2009
12) Hearing Time: 2:30 pm
13)
14 Debtor(s).)
15)
16)
17)
18)
19)
20)

21 **MOTION TO VALUE COLLATERAL, (MOTORCYCLE) AND MODIFY RIGHTS OF**
22 **GEMB FINANCING PURSUANT TO 11 U.S.C. §506(a) AND §1322**

23 Debtor, Travis Clark, by and through attorney Sam Benevento hereby moves this Court for
24 its Order valuing collateral (a motorcycle) and modifying the rights of Creditor GEMB Financing
25 ("GEMB") pursuant to 11 U.S.C. §506(a), and §1322, and Bankruptcy Rules 3012 and 9014. In
26 furtherance of this motion, Debtor states as follows:

- 27 1. Debtor filed the above captioned Chapter 13, Case Number 09-24366 MKN on August
28 7, 2009.
2. On the petition date, Debtor owned a 2007 Kawasaki ZX1000D Ninja ZX-10R.
(hereinafter the "Property").
3. Debtor values the Property at \$7,000.00 as of the petition date. See Blue Book
listing attached hereto as Exhibit "1".
4. As of the petition date, the Property was encumbered by a lien in favor of GEMB with
a principal balance of \$11,526.00 with interest stated at 10%, pursuant to the

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1 proof of claim on file herein.

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3 **LEGAL ARGUMENT**

4 Bankruptcy codes Section 1322 and 1325 permit the debtors to "cram down" a motorcycle
5 loan based upon the allowed value of the motorcycle. The value of the automobile is to be
6 determined under bankruptcy code Section 506. In determining the value of the automobile
7 pursuant to section 506 replacement value as of the date of the filing of the petition is the
8 applicable standard. Associates Commercial Corporation v. Rash 520 U.S. 953, 117 S.Ct. 1879,
9 138 L.ED. 2d 148 (1977).
10

11 In the instant case, Kelly Blue Book indicates that the value of the Property ranges
12 between \$7,720.00 "suggested retail" and \$5,330.00 "trade in". Debtor has proposed to pay
13 \$7,000.00 for the Property in the plan of reorganization. Debtor has further proposed to pay
14 interest at the contract rate of 10% on the fair market value as set forth herein.
15

16 Based upon the foregoing, Debtor respectfully requests that this court issue its order
17 valuing the Debtor's 2007 Kawasaki ZX1000D Ninja ZX-10R at \$7,000.00 for purposes of a cram
18 down with interest to be paid thereon at the annualized rate of 10%.
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20 Dated: September 18, 2009
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23

24 /s/ Sam Benevento, Esq.
25 Sam Benevento
26 Attorney for Debtor(s)
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